MARRIAGE—SUIT TO ANNUL—ALIMONY IN SUIT BY THIRD PARTIES.—A testator devised his property in trust for the support of his son during his life, and upon the son's death, to pay and distribute what remained to and among his heirs at law and next of kin as prescribed by law in case of intestacy. After testator's death the son married defendant, by whom he had issue one son. After the death of defendant's husband, plaintiffs, collateral heirs of testator, brought action to annul the marriage on the ground of lunacy of testator's son at the time of the marriage. On motion by defendant for alimony and counsel fee, *held*—alimony and counsel fee can only be allowed when the relation of husband and wife exists. The obligation to support and maintain is the underlying principle which justifies the granting of alimony and counsel fee when the marriage relation is attacked. Plaintiffs are strangers to defendant and owe her no duty of support. She is not a privileged suitor against them, but only against her husband while he lived. *Farnham* v. *Farnham,* (N. Y., 1919), 124 N. E. 894.

Such a case as this seldom arises for the reason that suits to annul marriages may be brought by others than a party to the relation only in a few exceptional cases. However, there are two decisions in accord with the present one, *Stivers* v. *Wise,* 46 N. Y. S. 9, and *Erwin* v. *Erwin,* 120 Ark. 581, in both of which counsel fees and alimony were disallowed the wife in a suit for annulment brought against her by the husband's guardian. In the present case Pound, J., dissenting, distinguishes between alimony and counsel fees and holds that the latter should be allowed. He says, "On general principles of equity, the court should have power to require those who seek to annul a marriage for their pecuniary gain to pay such sums as may be necessary to enable the wife to conduct her defense * * * The fact that he [the husband] is dead does not make the claim for counsel fee inequitable." This, we submit, is sound reasoning. There would seem to be a greater equity, if anything, in the defense of the marriage relation against collateral attack, than in a direct action by one of the parties, especially after the death of the husband. It might be well to note that the basis of the allowance of both alimony and counsel fees is equitable, though it is often defined by statute. See *Webb* v. *Wayne Circuit Judge,* 144 Mich. 674, and *Higgins* v. *Sharp,* 164 N. Y. 4, in which the power of the court to allow alimony and counsel fee is held to be an incident to the jurisdiction.

NEGLIGENCE—FAILURE TO MAKE BRIDGE SAFE FOR CHILDREN—"ATTRACTIVE NUISANCE."—Defendant city built a bridge over a culvert that discharged into a small pool; the waters were colored by dyes poured into the stream by mills above the bridge. The bridge was in a populous part of the city, and for twenty years children had played on vacant land nearby. Plaintiff's intestate, a child of 28 months, crawled between the parallel iron pipes that formed the bridge railing to see the "rushing of the colored waters," and fell to the base of the culvert and was killed. In an action for damages, *held,* (two judges dissenting) defendant was liable, as the injury was caused by its negligence in failing to maintain a railing that would sufficiently protect